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IN THE HIGH OF JUDICATURE OF CHHATTISGA RH AT BILASPUR

W.P.NO. 2821 /2002

PETITIONER : Arif Hussain Siddique S/O Shri A.H Siddique aged about 25 years, R/O Masjid Pare Dharam Jaigarh, Distt. Raigarh (C.G.)

VERSUS

RES-PONDENTS :

1. Statetof C.G. through secretary Department of Panchayat and Rural Development Govt. of C.G. D.K.S. Bhavan Raipur.
2. Secretary, Department of Local self Govt. of C.G. Raipur D.K.S. Bhavan Raipur.
3. Director, Urban Administration Chhattisgarh Raipur.
4. Chief Municipal officer, Nagar Panchayat Dharamjaigarh District Raigarh(C.G.)
5. Jila Panchayat through Chief Executive officer Raigarh (C.G.)
6. District Project Director R.G. P.S.M. Raigarh (C.G.)
7. Block Education officer Dharam Jaigarh Distt. Raigarh (C.G.)
8. Principal, Basic Training Institute Dharamjaigarh.
9. District Education officer Dharam-Jaigarh (C.G.)

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PETITION UNDER ARTICLE 226AND 227 OF THE CONSTITUTION OF INDIA

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 2821 OF 2002

Petitioner : Arif Hussain Siddique

Versus

Respondents : State of Chhattisgarh & others.

Smt. Hamida Siddiqui, counsel for the petitioner.

Shri Sandeep Dubey, Govt. Advocate for respondents No. 1, 2, 3, 4, 7 and 9.

ORAL ORDER

(20th February, 2006)

1. The petitioner was appointed on the post of Shiksha Karmi, Grade-III, Middle School, Bazar para, Dharamjaigarh, on 18.3.1999.
2. One Satyacharan Sarkar, challenged the selection proceedings, whereby, petitioner was appointed as Shiksha Karmi, without impleading him as a party before the Commissioner, Bilaspur. The Commissioner, Bilaspur Division, by order dated 14.2.2000 (Annexure P-1), quashed the appointment of last person in the select list. Accordingly, service of the petitioner, being the last person in the select list, was terminated by order dated 13.3.2000 (Annexure P-2). Being aggrieved, the petitioner filed writ petition being W.P. No. 2561/2000, in this Court. After hearing the parties, by judgement and order dated 13.3.2002, this Court allowed the petition and quashed the termination order (Annexure P-2). The petitioner was accordingly reinstated in the services. The petitioner has been continued as Shiksha Karmi, Grade-III.
3. The petitioner has filed this petition for grant of back wages and continuity in service.

4. The petitioner cannot be granted back wages as the back wages were denied by this Court by order dated 13.3.2002 in W.P. No. 2561/2000. However, the petitioner was granted liberty to make a representation for back wages to the authorities.

5. At this stage learned counsel for the petitioner submits that the petitioner is ready to give up claim of back wages but the petitioner be granted continuity in service. Accordingly, learned counsel for the petitioner submits that the petitioner be granted liberty to make a representation for continuity in service as Shiksha Karmi.

6. The petitioner has already filed a representation on 13.6.2002 (Annexure P-7), which has not been considered. Learned counsel for the petitioner seeks leave of this Court, to make fresh representation for grant of continuity of service to the authorities concerned. In the event a representation is made by the petitioner for grant of continuity of service, the concerned authorities are directed to consider the same and decide in accordance with law before cases of other similarly situated Shiksha Karmis are considered for promotion.

7. The representation, if any, made by the petitioner be considered and decided within a period of four weeks from the date of receipt of the same.

8. Before parting with the case, I am constrained to make a mention of the approach of the Government to this petition filed in this Court. The Government appears to be most uncooperative in this matter. The petition was admitted on 24.2.2000 and notice was accordingly issued. Till date the Government has not taken any steps to file any response or reply to the petition. Though in view of the settled position of law that if the averments made by the petitioners are not

controverted by the respondents, the averments have to be taken as admitted. However, the order is being passed in the facts and circumstances of the case.

9. A copy of this order be sent to the Chief Secretary of the State of Chhattisgarh, for information and necessary action.

10. The petition is disposed of. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge